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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/013,519	01/27/99	ODDERKIRK	A 503/105A50

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MM11/0519

EXAMINER
SHAHER, R

ART UNIT	PAPER NUMBER
2872	

DATE MAILED: 05/19/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.

09/013,819

Applicant(s)

OUDERKIRK ET AL

Examiner

R.D. SHAFER

Group Art Unit

2872

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 months MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 2/26/99
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-43 is/are pending in the application.
- Of the above claim(s) 10-12 AND 15-43 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-9, 13 AND 14 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4 AND 6 ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other \_\_\_\_\_

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1. Applicant's election of invention I (claims 2-9, 13 and 14) in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 10-12 and 15-43 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected invention. Election was made ~~without~~ traverse in Paper No. 5.

3. Claims 1-9, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

ROS In claim 1, lines 10-12, the language "an absorbing...state" is misdescriptive. As understood by the examiner the absorbing polarizer (11) is disposed in close <sup>Proximity</sup> <sub>A</sub> to the polymeric reflecting polarizer and is aligned to absorb light of the first polarization state and to transmit not reflect light of the second polarization state. Note Fig. 1 and and page 4, line 20-  
ROS page 5, line 13 of the specification.

In claim 5, lines 1-2, the use of the language "absorbing...dye" is vague, indefinite or confusing. It is unclear to the examiner how applicant considers the aboved mentioned language to further limit claim 3.

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In claim 7, lines 1-3, the use of the language "polymeric...polarizer" is vague, indefinite or confusing. It is unclear to the examiner how applicant considers the aboved mentioned language to further limit claim 4.

*RD5* In claims 13 and 14, line 1, "the <sup>dichroic</sup> polarizer" lacks proper antecedent basis.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 13 and 14 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schrenk et al ('949).

To the extent the claims are definite, Schrenk et al discloses a birefringent interference polarizer comprising a multilayer stack including first and second polymeric materials, wherein at least one of the first and second materials being birefringent, such that a refractive index difference between the first and second polymeric materials reflects light having a first

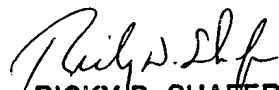
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polarization while transmitting light having a second polarization, note column 3, lines 17-28, which inherently and/or obviously serves as a reflective polarizer, furthermore, Schrenk et al clearly discloses in column 3, lines 38-55, that it may be desirable to incorporate coloring agents, such as dyes into one or more of the individual layers of said birefringent polarizer in order to permit selective absorption of certain wavelengths which inherently and/or obviously serves as an absorbing polarizer. Moreover, Schrenk et al clearly discloses in column 4, lines 13-27, that the polymeric materials are coextruded.

5. The references line through on the information disclosure statements have not considered by the examiner because applicant failed to provide a copy of said references.

6. Any inquiry concerning this communication should be directed to R.D. Shafer at telephone number (703) 308-4813.

Shafer/dc *RDS*  
May 14, 1999

  
RICKY D. SHAFER  
PATENT EXAMINER  
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